

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE DEPARTMENT OF THE NAVY
AND
THE SAN DIEGO ASSOCIATION OF GOVERNMENTS**

1. PURPOSE: This Memorandum of Understanding (MOU) is entered into between the Department of the Navy, Commander Navy Region Southwest (Navy) and the San Diego Association of Governments (SANDAG), each individually a "Party," or collectively referred to as the "Parties". The MOU outlines the shared understanding of the Parties regarding the potential renovation, redevelopment, or other utilization of the Naval Base Point Loma (NBPL) Old Town Complex (OTC) to meet the Navy requirement of obtaining mission capable facilities for NBPL and tenant commands Naval Information Warfare Systems Command (NAVWAR) and Naval Information Warfare Center Pacific (NIWC PAC), and the opportunity to explore inclusion of an intermodal transit facility and enhanced airport transit connections (Grand Central Station) at OTC.

2. BACKGROUND:

- a) The OTC Site is comprised of the 46.82 acre Old Town Complex 1 (OTC 1) and the 23.64-acre Old Town Complex 2 (OTC 2) for a total of 70.46 acres. OTC is approximately 2.5 miles from downtown San Diego and 3.6 miles to San Diego International Airport's Terminal 2, and is located in the City of San Diego, Midway-Pacific Community Planning Area. OTC supports major tenants of NBPL, NAVWAR and NIWC PAC with the functions of logistics, warehousing, supply, administrative offices and storage. OTC 1 (46.82 acres) consists of eight (8) buildings. The major buildings consist of World War II-era aircraft manufacturing hangars and associated administrative office buildings. OTC Site 1 was utilized during World War II to manufacture aircraft, and has been partially modernized to provide training facilities, administrative office space, and industrial (laboratories, shops and warehouse) space to support the current tenants. The existing space is currently underutilized, and is functionally obsolescent given the 1940's era facilities' design. OTC 2 (23.64 acres) consists of one (1) large building flanked by parking lots.
- b) Grand Central Station is a proposed intermodal transportation and mobility hub linking the greater San Diego region to the world via the San Diego International Airport.
- c) The Navy has current real estate authorities under 10 U.S.C. 2667, Leasing, and 10 U.S.C. 2869, Exchange of Property.
- d) Navy anticipates conducting a competitive process (Solicitation) to select a developer or other entity (Developer) with whom it intends to negotiate an agreement and enter into a ground lease, or other agreement allowed under the existing legislative authorities, to meet the Navy requirement of obtaining mission capable facilities for NBPL and tenant commands at the OTC Site.
- e) The Parties have agreed to enter into this MOU to memorialize their mutual interest in exploring the leveraging of the OTC Site to provide mission capable facilities for NBPL and its tenant commands and SANDAG's desire to develop San Diego Grand Central Station.

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3. UNDERSTANDING OF THE PARTIES:

- a) **ACHIEVEMENT OF NAVY REQUIREMENTS:** The Solicitation will allow a selected Developer flexibility in designing a high-density, mixed-use development (or other such similar concept acceptable to Navy) that leverages the OTC Site to provide mission capable facilities for NBPL and its tenant commands.
- b) **NAVY RIGHT TO SELECT DEVELOPER:** Navy shall exclusively solicit for and select the Developer for the overall redevelopment of the OTC Site as per the Solicitation.
- c) **SOLICITATION OPTION; NO GUARANTEE:** The Solicitation could also contain an option or other provisions inviting Developers to include a concept for incorporating SANDAG's Grand Central Station in their proposals, or requiring the selected Developer to enter into subsequent negotiations with SANDAG for the development of Grand Central Station. SANDAG will provide details about its requirements and will explore with the Navy how those requirements might be integrated into the overall development of the OTC Site. Navy will select a Developer based on a determination of best value to the Navy. This MOU provides no guarantee that the Solicitation will include provisions for Grand Central Station, or that the selected Developer's proposal will include Grand Central Station if provisions for Grand Central Station are included in the Solicitation. The details of any such inclusion may be the subject of a future agreement.
- d) **SANDAG DOES NOT INTEND TO SERVE AS DEVELOPER:** As condition of entering into this MOU, SANDAG covenants that it will not respond to any future Solicitation for the OTC Site as a potential Developer, or as part of a partnership, joint venture member, teaming structure or similar agreement with a potential Developer. If provisions for Grand Central Station are incorporated in some fashion in the Solicitation, SANDAG agrees to work in good faith with the Navy and all interested respondents to the Solicitation; the details of such collaboration may be the subject of a future agreement between the Navy and SANDAG.
- e) **ENVIRONMENTAL DOCUMENTATION:** SANDAG shall cooperate and coordinate with the Navy in the preparation of appropriate environmental documentation for the project, to include serving as a National Environmental Policy Act Cooperating Agency pursuant to the Navy's letter dated 3 Apr 19 and SANDAG's response to the same letter dated 8 May 19. Navy shall have no responsibility for any compliance with the California Environmental Quality Act (CEQA) or state and local laws that do not apply to the Navy, although Navy will cooperate with SANDAG in helping SANDAG meet its independent environmental requirements.

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- f) **PREVENTION OF POTENTIAL CONFLICT OF INTEREST:** Both SANDAG and the Navy may employ consultants in the development of the Grand Central Station concept and the Solicitation, respectively. To the extent any of those same consultants were to then participate individually or as part of a team bidding on the Solicitation, it could present a perceived or actual conflict of interest (e.g., that consultant and by extension its team bidding on the Solicitation could be viewed as having unequal access to information). SANDAG and the Navy shall proactively implement measures to ensure that any perceived or actual conflict of interest is neutralized and/or mitigated, as appropriate. This would include firewalling off those persons within various consultant firms advising the Navy or SANDAG from participating on teams bidding on the Solicitation, or completely barring such consultants from participating as bidders in the Solicitation process. Further, SANDAG and the Navy will ensure that proprietary and/or sensitive information generated beyond the conceptual level (e.g. feasibility assessments) is safeguarded from unauthorized disclosure by way of a Non-Disclosure Agreement with its consultants or by any other contractual provision ensuring that proprietary and/or sensitive information is not released. Both the Navy and SANDAG will report any potential conflicts of interest to one another, as well as the measures employed to mitigate or eliminate the conflict.
- g) **NO COMMITMENTS EXCEPT GOOD FAITH MUTUAL EFFORTS:** By this MOU, neither Navy nor SANDAG shall have any obligation to enter into a future, binding agreement with regard to the matters described herein, although the Parties agree to work in good faith to fully explore such matters. The Parties expressly agree and acknowledge that the relationship established by virtue of this MOU does not constitute a partnership, joint venture, agency agreement, or employment agreement.
- h) **DISCLOSURE:** Both the Navy and SANDAG may share this MOU with individuals or the public in accordance with its policies on the release of records.
4. **PERSONNEL:** Each Party is responsible for all costs of its personnel, including pay and benefits support, and travel. Each party is responsible for supervision and management of its personnel. This MOU does not document or provide for the exchange of manpower between the Parties or make any other commitment of human resources.
5. **GENERAL PROVISIONS:**
- a) **POINTS OF CONTACT:** The following points of contact will be used by the Parties to communicate in the implementation of this MOU. Each party may change its point of contact upon reasonable notice to the other Party.

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Navy Region Southwest

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Naval Facilities Engineering Command Southwest

CAPT Mark Edelson
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Ms. Susan Hulbert
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1220 Pacific Highway
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SANDAG

Mr. Hasan Ikhata
Executive Director
401 B St. Suite 800
San Diego, CA 92101

Mr. John Kirk
General Counsel
401 B St. Suite 800
San Diego, CA 92101

- b) **CORRESPONDENCE:** All formal correspondence to be sent and notices to be given pursuant to this MOU will be addressed, if to the Navy, to the Points of Contact at the address identified above and if to SANDAG, to the Points of Contact at the address identified above.
- c) **FUNDS AND MANPOWER:** This MOU does not document nor provide for the exchange of funds or manpower between the Parties nor does it make any commitment of funds or resources. Nothing in this MOU creates, or shall be construed to create, an actual or coercive deficiency in violation of the Anti-Deficiency Act , 31 U.S.C. 1341 et seq.
- d) **MODIFICATION OF MOU:** This MOU may only be modified by written agreement of both Parties, duly signed by their authorized representatives.
- e) **DISPUTES:** Any disputes relating to this MOU will, subject to any applicable law, Executive order, directive, or instruction, be resolved by consultation between the Parties.
- f) **TERMINATION OF UNDERSTANDING:** This MOU may be terminated in writing at will by either Party. The parties will review MOU every two years.

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- g) **TRANSFERABILITY**: The MOU is not transferable except with the written consent of both Parties.
- h) **ENTIRE UNDERSTANDING**: It is expressly understood and agreed that this MOU embodies the entire understanding between the Parties regarding the MOU's subject matter.
- i) **EFFECTIVE DATE**: This MOU takes effect beginning on the day after the last Party signs.

SAN DIEGO ASSOCIATION OF
GOVERNMENTS



Hasan Ikhata
Executive Director



B. BOLIVAR
Regional Commander
Navy Region Southwest

APPROVED AS TO FORM:



Ryan Kohut
Senior Legal Counsel



NICK MALLARI
Comptroller
Navy Region Southwest